

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Borran, et al.
Title: PARTIALLY COHERENT CONSTELLATIONS
FOR MULTIPLE-ANTENNA SYSTEMS
Appl. No.: 10/671,346
Filing Date: 9/24/2003
Examiner: Kevin Michael Burd
Art Unit: 2611
Confirmation Number: 7074

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR
PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants have calculated PTA for the captioned patent application and have determined that the patent is entitled to 209 days of Patent Term Adjustment, as shown on the attached sheet, which shows the relevant delays under 37 CFR §§1.702, 1.703 and 1.704:

- | | |
|----------------------------|----------|
| (a) Total PTO delay: | 329 days |
| (b) Total Applicant delay: | 120 days |

Final PTA Determination under 37 CFR §1.703(f): 209 days

In accordance with 1.705(b)(2)(ii), the relevant dates as specified in §§1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled are clearly represented in the attached PTA Calculation.

The relevant dates where the applicant is not in agreement with the PTO's determination are discussed in more detail below.

Applicant believes that this discrepancy occurred as a result of the PTO's failure to include 287 days of additional PTA accumulated in applicant's favor based on the provisions of 37 C.F.R. §§ 1.702(b)(1) and 1.703(b)(1), wherein PTA begins to accumulate in applicant's favor on the day after the commencement of three years from the filing date.

A Request for Continued Examination was filed in the application prior to allowance, and Patent Term Adjustment accordingly stopped accruing under 37 C.F.R. §1.703(b) on July 9, 2007. This PTA component was accordingly "ripe" at the time of allowance and accordingly could have been incorporated into the PTO's determination of PTA.

37 C.F.R. §1.705(d) states that "Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues." As the above-identified issue could arguably be raised under paragraph (b), the applicant is filing this request for reconsideration under an abundance of caution, in the knowledge that the PTO does not include patent term adjustment resulting from 37 C.F.R. §1.703(b) in its PTA calculations at allowance, even if PTA has stopped accruing due to the filing of an RCE.

In accordance with §1.705(b)(2)(iv)(A), the circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704 are clearly represented in the attached PTA Calculation.

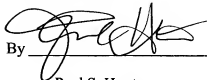
Applicants therefore respectfully request that the patent be accorded 209 days PTA.

Fees in the amount of \$200.00 set forth in 37 C.F.R. § 1.18(e) to cover the fee for this request are being paid by credit card via EFS-Web.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. § 1.705, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

However, because this PTA error is due to a Patent Office error in interpreting and applying the PTA statute, a refund of the fee is respectfully requested.

Respectfully submitted,


By _____

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Date November 3, 2010

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AP CASES SELECT CASE

Patent Term Adjustment Calculation System

Add a new event to this case

Docket Number: 088245-0108
 Application Number: 10/671346
 Patent Number: N/A

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days
Edit Delete	Application Filing Date	09/24/2003	0		
	14 month From Application date	11/24/2004	427		
Edit Delete	Non-Final Office Action	01/05/2005	469	42	
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	04/05/2005	559		
Edit Delete	IDS under 1.704(c)(8) filed at PTO	04/07/2005	561		2
Edit Delete	Non-Final Office Action	06/28/2005	643		
	Non-Final Office Action + 3 months	09/28/2005	735		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	09/29/2005	736		1
Edit Delete	Final Office Action	11/28/2005	796		
Edit Delete	Final Office Action Response Received at PTO	01/23/2006	852		
Edit Delete	Advisory Action	02/01/2006	861		
Edit Delete	Final Office Action Response Received at PTO	02/27/2006	887		
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Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	06/23/2006	1,003		3
Edit Delete	Non-Final Office Action	07/28/2006	1,038		
	3 Year Period Starts	09/24/2006	1,096		
	Non-Final Office Action + 3 months	10/28/2006	1,130		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	11/02/2006	1,135		5
Edit Delete	Final Office Action	01/08/2007	1,202		
Edit Delete	Final Office Action Response Received at PTO	04/04/2007	1,288		
	Final Office Action + 3 months	04/08/2007	1,292		
Edit Delete	Advisory Action	04/25/2007	1,309		
	3 Year Period Stopped	07/08/2007	1,383	287	
Edit Delete	Request For Continued Examination (including amendment)	07/09/2007	1,384		92
Edit Delete	Final Office Action	07/16/2007	1,391		

Edit Delete	Final Office Action Response Received at PTO	09/17/2007	1,454	
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Edit Delete	Non-Final Office Action	10/18/2007	1,485	
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Edit Delete	Notice of Allowance	08/06/2010	2,508	
	Projected Patent Grant Date	02/15/2011	2,701	
			Totals:	329
			PTA:	209
				120

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Version: 3.02.10

LOGIN Linda Anderson

IP: 10.24.4.21

Foley & Lardner LLP